

§ 58-34-15. Grounds for disapproval.

(a) The Commissioner must disapprove any management contract or custodial agreement filed under G.S. 58-34-10 if, at any time, the Commissioner finds:

- (1) That the service or management charges are based upon criteria unrelated either to the managed insurer's profits or to the reasonable customary and usual charges for the services or are based on factors unrelated to the value of the services to the insurer; or
- (2) That management personnel or other employees of the insurer are to be performing management functions and receiving any remuneration for those functions through the management or service contract in addition to the compensation by way of salary received directly from the insurer for their services; or
- (3) That the contract would transfer substantial control of the insurer or any of the powers vested in the board of directors, by statute, articles of incorporation, or bylaws, or substantially all of the basic functions of the insurance company management; or
- (4) That the contract contains provisions that would be clearly detrimental to the best interest of policyholders, stockholders, or members of the insurer; or
- (5) That the officers and directors of the management or custodial firm are of known bad character or have been affiliated, directly or indirectly, through ownership, control, management, reinsurance transactions, or other insurance or business relations with any person known to have been involved in the improper manipulation of assets, accounts, or reinsurance.
- (6) That the custodial agreement is not substantially the same as the form adopted by the Commissioner.

(b) If the Commissioner disapproves any management contract or custodial agreement, notice of the disapproval shall be given to the insurer stating the reasons for the disapproval in writing. The Commissioner shall grant any party to the contract a hearing if the party requests a hearing. (1987, c. 752, s. 8; 1991, c. 681, s. 54; 1993, c. 452, s. 50; 2001-223, s. 20.4.)